United Nations CAT/C/CZE/QPR/6

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
11 June 2014

Original: English

Committee against Torture

List of issues prior to submission of the sixth periodic report of the Czech Republic due in 2016*

The Committee against Torture, at its thirty-eighth session (A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Article 1

1. With reference to the previous concluding observations of the Committee against Torture (para. 7)[1] and given that the national legislation does not contain a definition of torture, please indicate whether the State party has considered amending the Criminal Code in order to adopt a definition of torture that covers all of the elements contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, please indicate how criminal legislation can be applied and how the judicial system can function in the absence of a definition of torture in the Criminal Code.

Article 2[2]

2. With reference to the Committee's previous concluding observations (para. 14) and the follow-up reply provided by the State party (para. 15), please provide updated information on any amendments to legislation that are aimed at abolishing the placement of

* Adopted by the Committee at its fifty-second session (28 April to 23 May 2014).

[1] Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under the symbol CAT/C/CZE/CO/4-5.

[2] The issues raised under article 2 could also encompass different articles of the Convention, including but not limited to article 16. As indicated in the Committee's general comment No. 2 (2008) on the implementation of article 2 by States parties, "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear" (para. 3). See also chapter V of the same general comment.

GE.14-04653 (E)

1404653

Please recycle

healthy children into classes for children with disabilities or into "practical" elementary schools. In addition, please provide information on progress made in implementing the National Action Plan for Inclusive Education.

3. Please indicate whether the Police Act has been amended to enable all persons deprived of their liberty to enjoy fundamental legal safeguards, and in particular the right to contact a relative or another trusted person, and the right of access to a lawyer, from the very outset of their detention. In addition, please provide an update on any progress made in establishing a free legal aid service whereby access to a lawyer would be available free of charge from the very outset of deprivation of liberty. Please indicate whether medical examinations of persons deprived of their liberty continue to be conducted in the presence of the escorting police officer. Please clarify whether access to an ex officio lawyer in police establishments is limited in cases of serious crimes, such as those punishable by a minimum of five years of imprisonment or a fine of at least 5 million koruny.

4. Please provide information on measures taken by the Control and Complaints Department of the Police Headquarters and the Inspectorate of the Ministry of the Interior to examine complaints by persons deprived of their liberty alleging ill-treatment or use of excessive force by police officers. In addition, please provide information on the number of complaints, the investigations and the outcomes of any criminal or disciplinary proceedings in this regard during the period under consideration.

5. Please provide information on measures taken so far to prevent and address violence against women and children, including domestic and sexual violence. Please describe steps taken to ensure that such acts are effectively and promptly investigated and prosecuted, that the perpetrators are punished appropriately, if convicted, and that the victims receive adequate redress.

6. Please indicate whether the mandate of the Public Defender of Rights (Ombudsman) has been broadened to promote and protect human rights in conformity with the principles relating to the status of national institutions (Paris Principles).

Article 3

7. In light of the Committee's previous concluding observations (para. 8), please indicate how many cases of return, extradition or expulsion took place since consideration of the previous report, and whether diplomatic or similar assurances were received. What was the minimum content of such assurances or guarantees and what subsequent post-monitoring mechanisms were established in such cases? Does the State Party provide diplomatic assurances in cases of extradition? If so, please provide information to the Committee about their nature.

8. With reference to the Committee's previous concluding observations (para. 17), please provide information on:

(a) Whether the State party has implemented alternatives to detention, including unconditional release, for asylum seekers, particularly minors, families with children and adults responsible for children, during the period under consideration;

(b) Whether asylum seekers in closed reception centres enjoy freedom of movement and whether the duration of restrictions on their freedom of movement has been reviewed;

(c) Whether the regime, and the medical and material conditions, including staffing levels, in centres for foreign nationals awaiting deportation conform to the relevant international standards, and whether the detention of children is used only as a measure of last resort.

9. Please provide detailed statistics on the number of requests for asylum received during the period under review, the number of requests accepted, and the number of applicants whose requests were accepted because they had been tortured or were at risk of torture if they returned to their countries of origin. Please include information, disaggregated by gender, age and country of origin, on the number of persons who were returned, extradited or expelled since consideration of the previous report. Please provide detailed information on the reasons for the returns and a list of the countries to which such persons were returned. In addition, please provide updated information on the type of appeal mechanisms that exist, as well as on any appeals that may have been lodged and, if so, on their outcome.

10. In light of the Committee's previous concluding observations (para. 19), please provide information on:

(a) Whether the State party has introduced a definition of statelessness in its legislation;

(b) Whether procedures and mechanisms for the determination of statelessness and a database on stateless persons in the territory of the State party have been established;

(c) Whether stateless persons have been provided with identification documents during the period under consideration;

(d) Whether a review has been carried out of the provisions in the draft Citizenship Act relating to acquisition of nationality by children born out of wedlock to foreign mothers and others who would otherwise be stateless.

Articles 5 and 7

11. Please indicate whether the State party, since consideration of the previous report, has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

12. With reference to the Committee's previous concluding observations (para. 18):

(a) Please provide information on the introduction of systematic training on detecting signs of and treating physical and psychological injuries resulting from torture and ill-treatment as outlined in the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (Istanbul Protocol) for nurses, doctors and paramedics and other professionals involved in documenting and investigating allegations of torture and ill-treatment, with a view to ensuring that every case of torture is detected and the perpetrators are duly punished;

(b) If the above-mentioned training has been introduced, please provide information on any methodology that has been developed to assess the effectiveness and impact of such training programmes on the incidence of cases of torture and ill-treatment.

13. In light of the Committee's previous concluding observations (para. 11) and the follow-up reply provided by the State party, please provide information on:

(a) Whether the campaign against racism and hate violence, coordinated by the Commissioner for Human Rights and the Agency for Social Inclusion, includes measures aimed at preventing racist attacks, and training for judges, prosecutors and police officers in the detection of hate crimes and racially motivated crimes;

(b) Whether any members of the Roma community have been recruited into the police force;

(c) Whether the Act on Equal Treatment and Legal Means of Protection against Discrimination (Anti-Discrimination Act) has been translated into the Roma language.

Article 11

14. With reference to the Committee's previous concluding observations (para. 9), please provide information on:

(a) Whether the State party has made greater use of alternative non-custodial measures, and has reduced the number of incarcerations resulting from alternative sentences not being implemented and then being converted to incarceration;

(b) Whether the regulations concerning the use of pepper spray in closed spaces have been revised to prohibit its use and to prohibit the inclusion of pepper spray canisters in the standard equipment used by custodial staff;

(c) Whether a study has been undertaken into the causes of suicides in detention, and if so, on its results;

(d) Whether preventive measures have been taken in respect of detainees at risk of suicide and/or inter-prisoner violence, such as installing cameras and increasing the numbers of prison staff;

(e) Whether the rules governing medical examinations of prisoners have been amended so as to ensure that they are conducted in private and are independent;

(f) Whether the practice of psychiatrists examining inmates through security grates has been halted;

(g) Whether health services for detainees have been transferred from the Prison Service (under the Ministry of Justice) to the Ministry of Health.

15. With reference to the Committee's previous concluding observations (para. 9), please provide information on laws and regulations governing incommunicado detention in the State party, its duration, and whether it is subject to judicial oversight that includes judicial review, as well as on the number of persons held in incommunicado detention. In addition, please provide an update on legislation that would allow prisoners, including those on remand, to lodge appeals against disciplinary punishments, as well as on the access by remand prisoners to family contact during disciplinary sanctions.

16. Please provide information on measures to improve material conditions in prisons, particularly with regard to overcrowding, staffing levels, sanitation, the availability and quality of medical services, including visits by psychiatrists, and sufficient quantities of food. Has more consideration been given to conditional release (parole)?

17. In the light of the Committee's previous concluding observations (para. 10), please indicate whether the State party has ended the policy of obliging certain categories of detainees to pay for their incarceration.

18. Please provide information on steps taken to prevent and address inter-prisoner violence and to protect particularly vulnerable prisoners. Please indicate whether staff in Pardubice Prison are present in detention units from 7 p.m. until the following morning. Please also indicate whether foreign prisoners benefit from the services of a professional interpreter, in particular during medical examinations.

19. Please provide information on any steps that may have been taken to ensure that persons deprived of their liberty for more than 24 hours in police establishments are offered

at least one hour of outdoor exercise per day, as well as on any steps to ensure adequate ventilation of the premises. In this connection, please provide information on progress in the construction and reconstruction of police cells with a view to bringing them into accordance with the Binding Guidelines of the Police President. Also, please provide an explanation about the fixtures in cells and outside cells that allow for the shackling of detainees in police cells "in natural and comfortable positions which are not detrimental to their health". Please indicate when these practices will be abandoned and such fixtures removed.

20. Please provide information on any new interrogation rules, instructions, methods and practices, as well as on arrangements for the custody of persons subject to any form of arrest, detention or imprisonment, that may have been introduced since consideration of the last periodic report, and on the frequency with which they are reviewed, with a view to preventing any cases of torture or ill-treatment.

21. In the light of the Committee's previous concluding observations (para. 21) and the follow-up reply provided by the State party, please provide information on:

(a) Any steps taken by the State party to include prohibition of the use of enclosed restraint beds ("cage beds" or "net beds") in the Health Care Services Act, and on any plans to amend the Methodological Guidelines on the Use of Restraints, with a view to progressively eliminating the use of all forms of restraint measures in psychiatric institutions;

(b) The establishment of strict and uniform regulations on the use of restraints across all psychiatric institutions, and the establishment of an independent monitoring and reporting system regarding their use;

(c) The possibility of patients in psychiatric institutions filing complaints directly with the Ombudsman and other independent monitoring mechanisms, as well as with the administrative department of the institution;

(d) Whether the Ombudsman has taken action in relation to non-compliance with conclusions and recommendations, including those that concern hygiene and neglect, during the period under consideration;

(e) The outcome of the judgement in regard to the death of Věra Musilová;

(f) Progress made so far in the reform and modernization of the system of psychiatric care in the State party, scheduled to begin in 2014, which includes a shift to community and semimural care.

Articles 12 and 13

22. With reference to the Committee's previous concluding observations (para. 15), please provide information on:

(a) Any changes made with regard to the registration of complaints and the system for assessing them, particularly in places of deprivation of liberty;

(b) Whether the General Inspection of Security Forces promptly, impartially and effectively investigates all allegations of torture and ill-treatment by law enforcement officials and prison staff, prosecutes the perpetrators of such acts and provides redress, including compensation, to the victims.

23. Also with reference to paragraph 15 of the Committee's previous concluding observations, please provide disaggregated data by, and with reference to, the sex, age, ethnicity and origin of the victims, with a breakdown according to the categories

established by law as grounds for filing a complaint, as well as on related investigations, prosecutions and convictions and on the penal or disciplinary sanctions applied.

24. In light of the Committee's previous concluding observations (para. 12), please provide information on:

(a) Whether the time limit for filing complaints in relation to the involuntary sterilization of Roma women has been extended, whether victims are entitled to free legal assistance, whether a compensation mechanism has been established under the Law on Specific Health Care Services which entered into force in 2012, and whether victims have received adequate compensation;

(b) Whether the preservation of medical records on involuntary sterilizations has been ensured beyond the time frame prescribed by law;

(c) Whether written materials relating to sterilization have been translated into the Roma language;

(d) The results of any investigations conducted into allegations of involuntary sterilization of Roma women, and on the punishments imposed on the perpetrators, including medical personnel conducting sterilizations without free, full and informed consent;

(e) Whether medical personnel have been trained on the appropriate means of obtaining free, full and informed consent from women undergoing sterilization, in accordance with the Law on Specific Health Care Services.

25. With reference to the Committee's previous concluding observations (para. 16), please provide information on:

(a) Efforts made to raise the awareness of and train law enforcement personnel, judges and prosecutors on measures to combat trafficking in persons, including at the regional level and through bilateral cooperation;

(b) Any measures taken by the State party to improve the identification of victims of trafficking; to enhance the investigation of all types of trafficking in persons, including those trafficked for sexual and labour exploitation; and to prosecute the perpetrators, and if they are found guilty, to punish them commensurately with the gravity of the crimes committed;

(c) The type of protection, and the access to counselling, health care, shelters, and redress, including compensation and rehabilitation, provided to victims of trafficking.

Article 14

26. In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide all the information required, but especially:

(a) On redress and compensation measures ordered by the courts since consideration of the last periodic report. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case, what kinds of rehabilitation programmes are provided and whether they include medical and psychological assistance;

(b) In reference to the Committee's previous concluding observations (para. 13): specific statistical data on the provision of adequate compensation, including rehabilitation and any other forms of assistance, to victims of involuntary sterilization and surgical castration, to victims of ill-treatment in medical and psychiatric settings, to victims of

violent attacks against ethnic minorities, and to victims of trafficking, domestic and sexual violence;

(c) On whether the time limit for filing claims has been extended.

Article 16

27. In the light of the Committee's previous concluding observations (para. 20), please provide information on whether legislation regarding sex offenders has been amended to include procedural safeguards, as well as precise regulations and professional instructions on their treatment, their detention and the duration of their detention, in order to bring the legislation into line with international norms such as the Standards of Care for the Treatment of Adult Sex Offenders. Please also provide information on whether the State party has desisted from the practice of surgical castration for detained sex offenders, during the period under consideration. In addition, please clarify whether castration is still allowed for persons who have not committed a serious offence but are considered to be at risk of committing such an offence.

28. With reference to the Committee's previous concluding observations (para. 22), please indicate:

(a) Whether the State party has amended its legislation, including the Family Act and the new Civil Code, in order to introduce an explicit prohibition on corporal punishment in all settings;

(b) Whether awareness-raising campaigns have been conducted among the general public regarding the unacceptability of and harm done by corporal punishment.

Data collection

29. In light of the Committee's previous concluding observations (para. 23), please provide comprehensive and disaggregated data on:

(a) Complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement, security and prison personnel;

(b) Complaints in relation to involuntary sterilization, surgical castration, involuntary treatment and placement in psychiatric institutions, and the use of restraints;

(c) Violent attacks against ethnic minorities, and in particular Roma;

(d) Trafficking, and domestic and sexual violence, as well as on means of redress, including compensation and rehabilitation, provided to victims.

Other issues

30. Please provide updated information on measures that the State party has taken to respond to any threats of terrorism and please describe whether, and how, these anti-terrorism measures have affected human rights safeguards in law and in practice, and how it has ensured that these measures comply with all its obligations under international law, especially the Convention, and with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers, the number and types of persons convicted under such legislation, the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice, whether there are complaints of non-observance of international standards, and the outcome of these complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

31. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken, since consideration of the previous report, that implement the provisions of the Convention or the Committee's recommendations. This may include institutional developments, plans or programmes, including resources allocated and statistical data or any other information that the State party considers relevant.